

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MARCH 17, 2014

SENATE BILL

No. 975

Introduced by Senator Lieu

February 11, 2014

An act to add Section 10343 to the Public Contract Code, relating to ~~public contracts~~ 19138.1 to the Government Code, relating to personal services contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 975, as amended, Lieu. ~~Service~~ *Personal services* contracts: legal compliance.

The California Constitution establishes that the civil service includes every officer and employee of the state, except as otherwise provided in the California Constitution, and requires civil service appointment to be made under a general system based on merit ascertained by competitive examination.

The State Civil Service Act establishes standards for the use of personal services contracts by state agencies, consistent with those provisions of the California Constitution relating to civil service, and authorizes personal services contracts when prescribed conditions are met.

The State Contract Act requires an applicable state department to require a prospective bidder on a public works project to answer questions inquiring whether, and if applicable explain the circumstances, the prospective bidder has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation. Existing law requires the questionnaire to be completed under the

penalty of perjury. Existing law authorizes the department to reject the bid of a bidder who has been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local project because of a violation of law or a safety regulation.

Existing law requires a competitive bidding process for certain contracts, including amendments, entered into by any state agency for services to be rendered to the state, whether or not the services involve the furnishing or use of equipment, materials, or supplies, or are performed by an independent contractor.

This bill would require the Department of General Services or a state agency, as defined, to require a bidder for a ~~service~~ *personal services* contract to pledge compliance, under the penalty of perjury, with all applicable state taxes, and all laws and regulations relating to health and safety, labor and employment, and licensing relevant to the bidder's employees, worksite, bid, and contract. The bill would prohibit the department or a state agency from awarding a ~~service~~ *personal services* contract to a bidder who does not affirmatively pledge compliance, as specified. The bill would also prohibit the department or a state agency from awarding a contract to a bidder with an adjudicated record of repeated noncompliance with applicable state taxes, laws, and regulations. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 10343 is added to the Public Contract~~
- 2 ~~Code, to read:~~
- 3 ~~10343.—~~
- 4 *SECTION 1. Section 19138.1 is added to the Government Code,*
- 5 *to read:*
- 6 *19138.1. (a) (1) A state agency or the department shall require*
- 7 *from a bidder for a personal services contract the completion,*
- 8 *under penalty of perjury, of a standard form pledging compliance*

1 of the bidder with all applicable state taxes, and all laws and
2 regulations relating to health and safety, labor and employment,
3 and licensing relevant to the bidder's employees, worksite, bid,
4 and contract.

5 (2) A state agency or the department shall not award a *personal*
6 *services* contract to a bidder who does not affirmatively pledge,
7 under penalty of perjury, compliance pursuant to subdivision (a).

8 (b) A state agency or the department shall not award a *personal*
9 *services* contract to a bidder with an adjudicated record of repeated
10 noncompliance with applicable state taxes, or with laws and
11 regulations relating to the health and safety, labor and employment,
12 and licensing relevant to the bidder's employees, worksite, and
13 bid.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.